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STAFF REPORT: APPEAL

SUBSTANTIAL ISSUE DETERMINATION/ DE NOVO FINDINGS

Appeal Number .....**A-3-SLO-05-017, Pine Knolls Water Tanks**

Applicant.....Cambria Community Services District

Appellants.....Commissioners Meg Caldwell and Mike Reilly; Environmental Center of San Luis Obispo (ECOSLO)/Sierra Club Santa Lucia Chapter; Ralph Covell

Local government .....San Luis Obispo County

Local Decision .....DRC2004-00093, Approved with Conditions (February 10,2005)

Project location .....Terminus of Manor Way (988 Manor Way) in the Pine Knolls neighborhood of Cambria, North Coast Planning Area, San Luis Obispo County. Water tanks will be constructed on the existing 11,000 square foot site, and an approximate 6,100 square foot expansion area from the property to the north (APN(s) 013-301-028 and portion of 013-111-005).

Project description.....Removal of two existing 103,000 gallon water tanks; construction of two new 550,000 gallon water tanks; relocation of electrical control panel and overhead electric service; replacement of 200 linear feet of waterline and valves.

File documents.....San Luis Obispo County Certified Local Coastal Program (LCP); and San Luis Obispo County CDP Application File DRC2004-00093.

Staff recommendation ...**Substantial Issue Raised; Approval with Conditions**

Summary of Staff Recommendation

San Luis Obispo County approved a proposal by the Cambria Community Services District (CCSD) to demolish and replace two existing 103,000-gallon water tanks with two new 550,000-gallon water tanks. The new tanks are intended to provide additional water storage to meet the community's system wide fire protection, back-up emergency, and daily operational needs. The project is located at the terminus of Manor Way in the Pine Knolls residential neighborhood of Cambria, San Luis Obispo County. The CCSD proposes to construct the tanks on a site encompassing an 11,000 square foot Pine Knolls tank site owned by the CCSD, and an approximate 6,100 square foot expansion area from the property to the north (the "northeast expansion area"). The undeveloped northeast expansion area is part of a 1,644-acre area owned by Ralph Covell and covered by a conservation easement held by the Nature

Conservancy that consists of densely vegetated Monterey pine forest habitat. The CCSD initiated eminent domain proceedings in 2004 in order to secure the additional land for their proposal. The standard of review is the San Luis Obispo County certified Local Coastal Program (LCP).

Appeals submitted by Commissioners Caldwell and Reilly, ECOSLO/Sierra Club, and Ralph Covell raise issues concerning new development within Monterey pine forest environmentally sensitive habitat (ESHA). The proposed project raises issues with a number of core ESHA protection policies and implementing ordinances. First, the project is inconsistent with the LCP because water tanks are not a resource dependent use allowed in ESHA. Second, the project expands development into a 6,100 square foot area that contains undisturbed Monterey pine forest habitat resulting in the permanent loss of ESHA. Third, the project would temporarily degrade the ESHA resource during construction. Fourth, the project is inconsistent with the policies of the LCP protecting rare and endangered plants and animals because it removes a significant number of sensitive Monterey pine and native Coast live oak trees, which serve as cover for other rare and sensitive wildlife species. Lastly, the project raises issues with the public facilities requirements of the LCP, which prohibit water tanks in Sensitive Resource Areas (SRA's) and ESHA's unless there is no other feasible location on or off-site the property. Staff recommends that the Commission find that a **substantial issue** exists with respect to this project's conformance with the certified San Luis Obispo County Local Coastal Program (LCP) and take jurisdiction over the coastal development permit for the project.

Staff further recommends that the Commission **approve with conditions** a coastal development permit for a new water tank project that avoids encroachment into sensitive Monterey pine forest ESHA. The 6,100 square foot northeast expansion area contains undisturbed, healthy pine forest ESHA and must be avoided. The existing 11,000 square foot Pine Knolls tank site is already disturbed and does not contain ESHA. As detailed in the findings below, there appear to be a variety of alternative tank designs that can be accommodated on the CCSD's property and that still meet the community's immediate and reasonable needs for fire, operational, and emergency water supply for existing development. The CCSD proposal includes storage capacity for a future development scenario that is approximately 20% greater than that needed to support existing development. However, the CCSD is currently enforcing a new water connection moratorium due to severe constraints in the water system. In addition, the Coastal Commission has previously identified water withdrawals from San Simeon and Santa Rosa Creeks and impacts to riparian habitat as a significant water supply issue in Cambria. The CCSD is currently evaluating a desalination project to provide additional water to the community. Although additional storage capacity may be desirable for future buildout scenarios in Cambria, this capacity has not yet been firmly established or evaluated for consistency with the LCP. Moreover, to the extent that it is needed, the design and construction of new capacity should be accomplished consistent with the LCP, including the ESHA protection policies. The CCSD has not established that additional tank capacity at the Pine Knolls location is the only way to accommodate future development water needs. Therefore, staff recommends that the permit be approved with a condition requiring all new development to be on the existing disturbed tank site only and not encroach into the adjacent ESHA. Although the project will need to be modified, it appears that there are feasible design options to provide for existing demand. A variance to LCP residential setback requirements (on the forest sides only) may be needed, and other constraints previously identified by the CCSD can be adjusted (such as reducing the maintenance area around the tanks from 12' to 8', and slightly modifying the proposed fire access road alignment). The County conditions related to fencing, landscape screening, lighting, tank color, cultural resources,

drainage and erosion control, noise, and the implementation of BMP's during construction are retained through the permit conditions. Thus, only as conditioned can the project be found consistent with the LCP.

Staff Report Contents

1. Appeal of San Luis Obispo County Decision

A. San Luis Obispo County Action

On February 10, 2005, the San Luis Obispo County Planning Commission approved the proposed project subject to multiple conditions (see exhibit D for the County's Final Local Action Notice, including findings and conditions on the project). The Planning Commission's approval was not appealed locally (i.e., to the Board of Supervisors).[1] Notice of the Planning Commission's action on the coastal development permit (CDP) was received in the Coastal Commission's Central Coast District Office on March 2, 2005. The Coastal Commission's ten-working day appeal period for this action began on March 3, 2005 and concluded at 5pm on March 16, 2005. Three valid appeals (see below) were received during the appeal period.

B. Appeal Procedures

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because the project is located in a sensitive coastal resource area; because the public utility facility use proposed is not the principal permitted use within the residentially zoned area; and because the action taken is on a major public works project.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is not so located and thus this additional finding need not be made in a de novo review in this case.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government either personally or through their representatives), and the local government. Testimony from other persons regarding

[1] San Luis Obispo County charged a fee for the local coastal permit appeal. In these instances, aggrieved parties can appeal such decisions directly to the Commission.

substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

C. Appellants' Contentions

Appeal of Commissioners Caldwell and Reilly

The two Commissioner Appellants contend that the County-approved project raises substantial issues with respect to the project's conformance with core LCP sensitive resource area (SRA) and environmentally sensitive habitat area (ESHA) protection policies. In sum, Commissioners Caldwell and Reilly contend that the project has not been sited and designed to avoid significant impacts to the Monterey pine forest. They contend that the project does not minimize removal of native vegetation and will have significant adverse impacts on rare or sensitive plant and animal species. They also contend that the project is inconsistent with LCP requirements for public utility facilities located in identified SRA's and ESHA's because there appear to be other feasible alternatives that avoid adverse impacts (see Exhibit E).

Appeal of the ECOSLO/Sierra Club

The ECOSLO/Sierra Club appeal contains contentions similar to the Commissioner appeal, contending that the County-approved project raises substantial LCP issues related to inadequate protection for the identified Monterey pine forest habitat (see Exhibit F).

Appeal of Ralph Covell

Mr. Covell's appeal contains contentions similar to the Commissioner and ECOSLO/Sierra Club appeals. Mr. Covell also contends that the project greatly exceeds the water storage volume required to meet potential fire hazards in the CCSD territory (see Exhibit G).

2. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that **a substantial issue** exists with respect to the grounds on which the appeals were filed pursuant to Coastal Act Section 30603.

> ***MOTION**: I move that the Commission determine that Appeal No. A-3-SLO-05-017 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION of SUBSTANTIAL ISSUE: Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE: The Commission hereby finds that Appeal No. A-3-SLO-05-017 presents a substantial issue with respect to the grounds on which

the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan.

3. Staff Recommendation on De Novo Permit

The staff recommends that the Commission, after public hearing **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

> ***MOTION:*** ***I move that the Commission approve Coastal Development Permit Number A-3-SLO-05-017 pursuant to the staff recommendation.***

STAFF RECOMMENDATION OF APPROVAL: Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT: The Commission hereby approves the coastal development permit on the ground that the development as conditioned, will be in conformity with the provisions of the San Luis Obispo County certified Local Coastal Program. Approval of the coastal development permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment.

4. Conditions of Approval

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Scope of Permit**. This permit authorizes:
   a) The demolition and removal of two existing water tanks on APN 013-301-018.
   b) The construction of new water tanks on APN 013-301-018 only.
   c) Relocating an existing control panel and overhead electric service on APN 013-301-018.
   d) Replacement of approximately 200-linear ft. of buried 10-inch asbestos cement waterline and valves with 14-inch concrete coated welded steel cement-lined waterline and valves on Manor Way.
   e) Site excavation on APN 013-301-018.
   f) Development of an emergency access road on APN 013-301-018.
   g) Installation of site fencing and landscape screening on APN 013-301-018.

2. **Revised Project Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two sets of Revised Project Plans to the Executive Director for review and approval. The Revised Project Plans shall show all development located within the existing 11,000 square foot Pine Knolls tank site (APN 013-301-018).

3. **County Conditions of Approval.** Except for County conditions of approval **1, 2, 13, 14, 16, 17, 18, 19, and 20,** all conditions of San Luis Obispo County's approval of the project become conditions of this permit. All conditions of San Luis Obispo County's approval pursuant to planning authority other than the Coastal Act continue to apply.

5. Substantial Issue Findings

A. Environmentally Sensitive Habitat Areas

1. Applicable Policies

Appellants contend that the project is inconsistent with the ESHA policies of the SLO County LCP because of project impacts to the Monterey pine forest habitat. The LCP is very protective of environmentally sensitive habitat areas (ESHA). The LCP restricts new development in ESHA to resource dependent uses, and requires new development within or adjacent to ESHA's to avoid significant habitat impacts (Policy 1, 29 and CZLUO Sections 23.07.164(e) and 23.07.170(b)). Vegetation that is rare or endangered must be protected and new development must disturb the minimum amount of vegetation as possible (Policy 30 and 35). CZLUO Section 23.08.288(d) prohibits public utility facilities in Sensitive Resource Areas (SRA's) and ESHA's unless the approval body makes a finding that there is no other feasible location on or off-site the property. In general, LCP policies and ordinances define and protect SRA's and ESHA's, allowing only a very limited amount of

development within or near these areas.

2. Analysis of Consistency with Applicable Policies

As detailed below, the appeals by Commissioners Caldwell and Reilly, ECOSLO/Sierra Club, and Ralph Covell, raise **a substantial issue** because the County approved project is inconsistent with provisions of the San Luis Obispo County certified Local Coastal Program with respect to Sensitive Resource Areas (SRA's); Environmentally Sensitive Habitat Areas (ESHA's); Terrestrial Habitat (TH) protection; and the development of public utility facilities within and adjacent to such areas. The following substantial issues are raised:

Sensitive Resource Area (SRA)

The project is located within an LCP designated Sensitive Resource Area (SRA) combining designation. The SRA Combining Designation is applied by the Coastal Zone Land Use Ordinance (CZLUO) to identify areas with special environmental qualities, or areas containing unique or endangered vegetation or habitat resources. The purpose of this combining designation standard is to require that proposed uses be designed with consideration of the identified sensitive resources, and the need for their protection, and where applicable, to satisfy the requirements of the California Coastal Act. In this case, the SRA combining designation is applied to the project due to the presence of environmentally sensitive Monterey pine forest habitat.

Pursuant to CZLUO Section 23.07.164(e), projects located within a SRA can only be approved if special required findings are made. In sum, the findings require that new development avoid significant adverse impacts on the Monterey pine forest through site design. The proposed project does not avoid impacts to forest habitat. As detailed in the de novo findings, incorporated herein, there appear to be feasible alternatives that could be developed consistent with the LCP and thus the special required findings cannot be made in this case.

The project results in the permanent loss of approximately 6,100 square feet of undisturbed Monterey pine forest habitat, which is the basis for the SRA designation. Topsoil will be cleared in previously undisturbed areas, and the project will remove approximately 26 Monterey pine trees and 24 native Coast live oak trees. In addition, 7 Monterey pine trees and 9 Coast live oak trees will be impacted as a result of construction activities. Physical improvements such as fencing, retaining walls, steel water tanks, concrete foundations, and other permanent hardscape within the sensitive Monterey pine forest will have significant adverse impacts to the habitat. Alternative site designs appear to be available that avoid these impacts. Thus, as substantial issue is raised with respect to protection of identified sensitive resource areas.

Environmentally Sensitive Habitat Areas (ESHA)

The project site includes a mapped Terrestrial Habitat (TH) overlay, indicating the presence of ESHA. Like the SRA combining designation requirements, projects located within *or adjacent* (emphasis added) to ESHA require special findings to be made (pursuant to CZLUO Section 23.07.170(b)). In general, the required findings ensure that the project avoids significant impacts to the forest habitat and maintains the biological continuance of the habitat area. As detailed in the de novo findings, incorporated herein, because there appear to be feasible alternatives that could be developed consistent

with the LCP, and because the County's required offsite Tree Replanting Mitigation Plan is inadequate to preserve and protect the Monterey pine forest onsite, the special required findings cannot be made in this case.

As described above, excessive ground disturbance, tree removal, and overall habitat loss will have a significant adverse impact on the resource. The habitat loss will occur in a conservation easement area held by the Nature Conservancy, that was obtained specifically to protect the identified habitat from development impacts. Incremental loss of forest habitat, particularly in established protected areas, does not maintain the biological continuance of the habitat area, as required by the LCP.

The County's approval of the project applied policies and ordinances for development within and adjacent to ESHA, largely due to the significant removal of native Monterey pine and Coast live oak trees. While the County approval requires replacement of lost Monterey pine trees at a 2:1 ratio and Coast live oaks at a 4:1 ratio, it did not require that the siting and design of the water tanks be minimized to **avoid** removal of habitat. Since the County's approval allows for removal and mitigation of these sensitive species and habitat, rather than avoidance through redesign or reduction of structural footprint, the County's action raises a substantial issue with respect to protection of ESHA.

The Land Use Plan (LUP) of the LCP also contains a number of applicable ESHA protection policies. LCP Policy 1 mimics the required findings listed above, requiring that development within or adjacent to locations of environmentally sensitive habitat (within 100 feet) shall not significantly disrupt the resource. Within an existing resource, only resource dependent uses are allowed. First, the project approved by the County would allow a public utility facility that is not dependant on a location within an ESHA, to be developed within the pine forest ESHA. Second, the project would permanently occupy and remove 6,100 square feet of significant ESHA area in an area protected by a conservation easement, which is indicative of the sensitivity of the impacted habitat. Third, temporary impacts to the ESHA resource can also be expected during construction. Lastly, the County approved project is inconsistent with the LCP ESHA setback standards because development is located within the identified resource, and within the required 100-foot buffer area (see site plan in Exhibit C).

Terrestrial Habitat Protection

The project site contains Terrestrial Habitat (TH), which is a Combining Designation in place to protect rare and endangered species of terrestrial plants and animals, such as Monterey pines, by preserving their habitats. Emphasis for protection is on the entire ecological community rather than only the identified plant or animal. Terrestrial Habitat (TH) is defined in the LCP as a type of ESHA requiring special protection. LCP Policy 29 for protection of Terrestrial Habitats also requires that only uses dependent on the sensitive resources be allowed within the identified sensitive habitat. Development adjacent to ESHA shall be sited and designed to prevent impacts that would significantly degrade such areas and shall be compatible with the continuance of the resource. The County approved project is inconsistent with the LCP because it allows development within an ESHA that is not resource dependent. As described above, development in the northeast expansion area will have significant adverse impacts on the Monterey pine forest Terrestrial Habitat. Thus, a substantial issue is raised.

Protection of Rare and Endangered Vegetation

LCP Policy 30 requires that native trees and plant cover be protected wherever possible. Policy 35

requires that vegetation that is rare or endangered or serves as cover for endangered wildlife shall be protected against any significant disruption of habitat value. Monterey pine (*pinus radiata*) is listed as a Rare, Threatened or Endangered (list 1B) plant species by the California Native Plant Society (CNPS). The proposed project will remove approximately 26 Monterey pine trees and 24 Coast live oaks, both of which are also native species. In addition, there are seven Monterey pines, and nine Coast live oaks that will be impacted during construction. As indicated in the Initial Study/Mitigated Negative Declaration for the project, the loss of these trees may have adverse effects on known special-status bird species that have the potential to live and nest in this area of the Cambria Monterey pine forest (e.g. Cooper's hawk, northern harrier, white-tailed kite, sharp-shinned hawk, long-eared owl, and loggerhead shrike). Thus, a substantial issue is raised.

Public Utility Facilities in SRA's and ESHA's

CZLUO Section 23.08.288(d) prohibits public utility facilities in Sensitive Resource Areas (SRA's) and Environmentally Sensitive Habitat Areas (ESHA's) unless the approval body makes a finding that there is no other feasible location on or off-site the property. Commissioners Caldwell and Reilly have questioned whether his finding can be made because there appears to be at least one other feasible less environmentally damaging alternative that exists consistent with the LCP. Thus, a substantial issue is raised with respect to consistency with CZLUO Section 23.08.288(d). (See De Novo review for a detailed description of alternatives).

Tank Volume Requirements

Appellant Ralph Covell contends that the project "greatly exceeds the needed water storage requirements to meet potential fire hazards in the CCSD territory". According to the feasibility study of February 4, 2005 by Boyle Engineering, the types and sizes of structures being served determine the amount of fire storage needed. For the Pine Knolls water tanks, the 2000 Uniform Fire Code (Table A-III-A-1) determined the needed flow rate and duration for specific types of construction and building sizes. This resulted in a minimum of 3,500 gallons-per-minute of flow for a duration of three hours, resulting in 630,000 gallons of needed fire storage for the service area currently served by the Pine Knolls tanks. The current proposal is for 630,000 of additional fire storage and does not exceed this amount. Thus, this appeal contention does not raise a substantial issue.

However, the Appellant's contention does raise a valid concern about the overall tank volume requirements for the project. Needed tank volume consists of three parts: 1) fire storage; 2) emergency backup storage; and 3) daily operational storage. While the Commission recognizes the need for additional water storage to fight fires, the amount of tank volume needed for emergency and operational storage with this project should not exceed that which is currently necessary if such a volume requires impacts to sensitive coastal resources, such as Monterey pine ESHA. Commission staff has reviewed the calculations provided by the CCSD and it appears that the emergency and operational volumes proposed at the Pine Knolls site go beyond that which is currently needed. Additional review is needed in order to support increases in both emergency and operational volumes at this time. This is a substantial issue and is addressed in more detail in the following De Novo permit alternatives analysis.

C. Substantial Issue Conclusion

The approved project is located in an LCP designated Sensitive Resource Area due to the presence of native Monterey pine forest terrestrial habitat (TH). Under the LCP, Monterey pine forest (TH) is considered ESHA and is to be protected. The County approved project is proposed within a Monterey pine forest ESHA resource and appears not to have been adequately protected. The cutting of a significant number of Monterey pine and Coast live oak trees, and the permanent removal of 6,100 square feet of forest will lead to adverse impacts and significant habitat disruptions. The approved project appears to exceed the necessary tank storage volume requirements, and therefore could be too large in scale for the site given the surrounding sensitive resources. As such, the proposed project is inconsistent with the LCP habitat protection policies as well as the requirements for public utility facilities in SRA's and ESHA's. Thus, the appeals raise a substantial issue with respect to consistency with the certified LCP.

See the De Novo ESHA findings, incorporated herein by reference, for more detail.

6. De Novo Findings and Declarations

A. Project Background

Cambria is an unincorporated coastal town of approximately 6218 persons[2] located in northern San Luis Obispo County. The town, extensively subdivided into very small lots in the early part of the last century without regard to topographical or other planning constraints, is partially built out with mostly single family residential development located within hilly pine forest or along the coastal terrace that lies adjacent to the sea. Roads serving the homes in the pine forest are often narrow and steep. Although there have not been any large fires in this area for many years, the combination of dense residential uses, limited access and the forest make this a high-risk area for fire. The commercial center of the town stretches along Santa Rosa Creek and is subject to periodic flooding.

Public services (water, sewer, and fire protection, parks) are provided by the Cambria Community Services District (CCSD) that is governed by a locally elected board. The district has struggled for years to provide water for new development in the community but has been limited by scarce local water resources. The town is currently under a development moratorium due to the lack of water supplies for additional construction. The district has also known for many years that water storage for fire protection was inadequate. The CCSD does not have water storage specifically dedicated to fire protection or emergency conditions and the District currently relies on operational storage for all of its water needs. The Commission has previously identified water supply constraints, including insufficient fire protection flows, as a significant water supply issue in Cambria. In the 1998 North Coast Plan Update, the Commission found that significant concerns existed with the CCSD's withdrawals from San Simeon and Santa Rosa Creeks and potential impacts to riparian habitat. These concerns were reiterated in the Commission's 2001 adoption of the Periodic Review of the San Luis Obispo LCP.

On October 13, 2004, Commission staff in the Santa Cruz office received notice that the Planning Director of San Luis Obispo County had issued a non-appeallable, emergency permit to the CCSD for

[2] Data from 2000 Census. Average annual growth is projected at 2.3 percent.

the removal of two 103,000-gallon water tanks and the construction of two 550,000 gallon water storage tanks on the district's Pine Knoll site and adjacent land. The cause of the emergency was a 2002 planning document (Cambria Community Services Master Plan of 2002) that "identified a significant deficiency in fire storage at the Pine Knolls water tank site" and damage to the tanks from the Paso Robles earthquake in December of 2003. Prior to application for the emergency permit, the district had been in the process of obtaining a Coastal Development Permit from the County and was also prosecuting an eminent domain action against the neighboring landowner to obtain additional land (approximately 9115 square feet) for the tank site. The land to be acquired was Monterey pine forest ESHA subject to a conservation easement held by the Nature Conservancy to protect it from development.

Coastal Commission staff questioned the validity of the emergency permit because it had been known for years that fire storage in Cambria was inadequate and thus this inadequacy was not "sudden or unexpected" as required for use of the emergency permit process. Further inquiry into the state of the existing tanks revealed that they were not actually damaged by the 2003 earthquake but also that they did not meet current standards for seismic bracing so if there was another earthquake, they might fail. Commission staff advised that this information was not a valid basis for granting an emergency permit and requested that the district withdraw their request for an emergency permit and continue processing the regular permit for the project. The district refused to withdraw the emergency permit and Commission staff started proceedings to obtain an Executive Director's Cease and Desist Order against the district and the county, as the issuing agency, to stop any development under the emergency permit. (Notice Prior to Issuance of Executive Director Cease and Desist Order, Number ED-04-CD-02, October 21, 2004, see Exhibit H).

Upon receipt of the notice, the County rescinded the emergency permit (Letter from Victor Holanda, Planning Director to Sarah Christie, dated October 22, 2004, Please see Exhibit I).

On November 17, 2004, the district again submitted an application to the county for an emergency permit to construct the tanks. (Please see letter from Bob Gresens, District Engineer to Matt Janssen, San Luis Obispo County Planning Department, Exhibit J) On November 19, 2004, the County Planning Director advised the district that he would not authorize an emergency permit for this project. Commission, county and district staff subsequently met on November 23, 2004 to discuss the project and alternatives to the project that would avoid impacts on the neighboring Pine Forest ESHA. The district asserted that none of the alternatives were feasible and, on November 29, 2004 again requested an emergency permit from the County and threatened legal action if the County did not comply. (Letter from Tammy Ruddock, District General manager to Victor Holanda, County Planning Director, Please see Exhibit K). The County did not comply with the District's request.

The Executive Director's Cease and Desist Order issued on October 22, 2004. The district's response was to file a legal challenge to the order and to contend that, in any event, the district did not need a coastal development permit to pursue their project (Please see letter from Art Montandon, district legal counsel to Sandy Goldberg dated October 21, 2004 and response dated October 21, 2004, Exhibit L). The legal challenge was heard in San Luis Obispo Superior Court on December 17, 2004. The Commission was represented by counsel from the Attorney General's office and the district by District Counsel. The court ruled in favor of the Commission but retained jurisdiction, advising the parties to work cooperatively to secure a permit for the project in an expeditious manner.

Over the next weeks, Commission and County staff met with District staff in an effort to agree upon a project that would meet the district's needs while preserving the adjacent ESHA. A number of alternative plans were forwarded to the district (Please see Exhibit M), but none were acceptable. (Please see District response to alternatives, Exhibit N). The District did modify its original project somewhat to reduce but still not avoid encroachment into forest habitat. In the meantime, the County continued to expedite the processing of the Coastal Development Permit for the district's' project. An application for the project was filed as complete on December 2, 2004 and scheduled for a January planning commission hearing. The item was initially heard on January 13, 2005 but continued to a February meeting to allow the applicant time to prepare additional information regarding the proposed changes to the conservation easement, the status of the applicant's CEQA document, and a response to Commission staff's letter of January 12, 2005 (Please see Exhibit O).

On February 10, 2005, the Pine Knolls Tank Replacement project was approved by the San Luis Obispo County Planning Commission subject to a number of conditions. (Please see Exhibit D, Local Approval) The Final Local Action Notice was received in the Santa Cruz office of the Coastal Commission on March 2, 2005. Timely appeals were filed on March 16, 2005 and the item was set for hearing at the April Commission meeting in Santa Barbara.

B. Project Location and Description

The proposed project is located in the town of Cambria, in the North Coast Planning Area of San Luis Obispo County. The project site is situated at the terminus of Manor Way (988 Manor Way) in the Pine Knolls residential neighborhood of Cambria. A short gravel road at the end of Manor Way provides access to the project site. The project site is bordered by single-family residences to the south and west, and open space to the north and east. See Exhibits A, B, and C for illustrative project location information.

The existing Pine Knolls tank site owned by the CCSD is approximately 11,000 square feet in size and contains two 103,000-gallon water tanks at an elevation of approximately 285-feet above mean sea level. Each tank is 24-feet in diameter and 32-feet tall. Sparse cover of annual grasses and weedy species occur on the existing tank site. Landscape trees and shrubs are located along the site's western and southern boundary, and provide some screening for the adjacent neighborhood.

The proposed project area includes the existing Pine Knolls tank site, as well as an extension of approximately 6,100 square feet of land area beyond the northeastern portion of the property (referred to as the "northeast expansion area"). Thus, the total proposed project area, including the existing tank site, is approximately 17,100 square feet. The northeast expansion area is part of a 1,644-acre area owned by appellant Ralph Covell and held in a conservation easement by The Nature Conservancy. The undeveloped northeast expansion area consists of densely vegetated Monterey pine forest. A Sensitive Resource Area (SRA) combining designation boundary line, used to identify areas with special environmental qualities, or areas containing unique or endangered vegetation or habitat resources, runs co-terminus with the northern border of the existing tank site. A Terrestrial Habitat (TH) boundary line is mapped near the property (approximately 80 to 90 feet northeast of the property line), indicating the presence of the native Monterey pine forest ESHA.

The topography of the existing Pine Knolls tank site is level and soils have been disturbed or modified

for current tank use. The top 1 to 4.5 foot layer of soil consists of light brown poorly graded sand with clay, in a medium dense condition. Underlying the surface layer is 1 to 3 feet of very stiff, mottled sandy lean clay, identified as residual soil. At 2.5 to 6 feet below grade, there is bedrock (sandstone). The topography of the northeast expansion area is also relatively level, and is approximately 5-feet higher in elevation than the existing Pine Knolls tank site. The soils within the northeast expansion area have not been disturbed or modified from their natural state. These soils are classified as San Simeon sandy loam, 9 to 15 percent slopes. San Simeon sandy loam is moderately deep, moderately well drained, strongly sloping soils that occur on foothills and terraces.

The proposed project would replace the two existing 103,000-gallon welded steel tanks at the existing Pine Knolls tank site and expand the site to include two 550,000-gallon welded steel tanks. The project site will be excavated to approximately five feet below grade and soils will be re-compacted or imported to ready the site prior to preparing the tank foundations. The tank foundations will consist of steel-reinforced cast-in-place concrete. The new tanks will have approximately the same height as the existing tanks (32-foot sidewall height). Each of the two replacement tanks will have a 60-foot diameter footprint, for a total of 5,700 square feet (2,850 square feet for each tank). Other site improvements include driveways and walkways constructed of river rock and chain link security fencing. A control building (approximately 30 square feet) will be constructed to house the tank controls. In addition, the project will replace approximately 200-linear feet of buried 10-inch asbestos cement waterline and valves with 14-inch concrete coated welded steel cement-lined waterline and valves. This waterline will increase the fire flow capacity between the tanks and the distribution system. The pipeline will be installed in an existing driveway between the tank site and the end of Manor Way. Also, the project will replace an existing check valve vault with a new pressure-reducing valve vault at the end of Manor Way.

The proposed project would be constructed in several phases. The initial phase of work will involve removal of approximately the top five feet of soil, and re-compaction of fill material for the new northeastern tank. Both existing tanks will remain in service until the new northeastern tank is constructed. Construction activities include building a concrete ringwall foundation and erection of the steel tank walls, floor and roof. Tank surface preparation and coating will take place next. After the first (northeastern) tank is completed, disinfected, and brought online, the existing 103,000-gallon tanks will be taken out of service and dismantled. The second (southwestern) tank will then be constructed in the same manner as the northeastern tank. The total estimated construction time for the project is anticipated to be approximately seven to nine months. Construction time could be extended due to site conditions as a result of wet weather.

C. County-Approved Project

In summary, the County found that although the project was located within the Monterey pine forest ESHA resource, the proposed water tanks have been sited to impact the least amount of undisturbed habitat area as feasible. The County conditioned the project to include a Tree Replacement Mitigation Plan, and an onsite landscaping plan to reduce impacts to a less than significant level. The County found that the project is not dependent on the Monterey pine forest, yet is dependent on the location of this specific site. The County found that allowing the water tanks to expand into the 6,100 square foot northeastern expansion area would cause less of an impact than re-locating the project on another site.

The County conditions of approval also include measures to address cultural resources, drainage, sediment and erosion control, noise, project aesthetics, air quality, and implementation of BMP's during construction. See Exhibit D for complete text of County Findings and Conditions.

D. Coastal Development Permit Findings

1. Public Works

a. Applicable Policies

Policy 2: New or Expanded Public Works Facilities. *New or expanded public works facilities shall be designed to accommodate but not exceed the needs generated by projected development within the designated urban reserve lines. Other special contractual agreements to serve public facilities and public recreation areas beyond the urban reserve line may be found appropriate. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.021c OF THE CZLUO].*

Policy 7: Permit Requirements. *The county shall require a permit for all public works projects located within the coastal zone except:*

a. *For maintenance or repair activities that do not result in an enlargement or expansion of the facility.*

b. *Where the development is a state university, college, public trust lands or tidelands (which require a permit from the State Coastal Commission that must meet the requirements of Chapter 3 of the Coastal Act. The county Local Coastal Program will serve in an advisory function).*

c. *For those minor projects that can be categorically exempted as provided for in the Coastal Act on account of geographic area or function per Section 30610(e) where the categorical exclusions has been approved by the county and Coastal Commission.*

d. *The installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this division; provided that the county may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources including scenic resources.*

[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO CHAPTER 23.03 OF THE CZLUO.]

23.08.288 – Public Utility Facilities: *The requirements of this section apply to Public Utility Facilities where designated as S-13 uses by Coastal Table 'O', Part I of the Land Use Element. Public Utility Facilities for other than electric and communications transmission and natural gas regulation and distribution, require Development Plan approval pursuant to Section 23.02.034 (Development Plan).*

a. Permit requirements. *In addition to the emergency repair and the general permit*

requirements of section 23.08.286a and b., Development Plan approval is required for any new facility or modification of any existing facility in the Agriculture, Rural Lands, Residential, Office and Professional, and Commercial land use categories. Development Plan approval is required for any new facility or modification to any existing facility which would increase the structure heights above those specified in section 23.04.124 or modify any operational standards causing an increase in any of the categories specified in chapter 23.06 of this title

b. *…*

c. Development standards*. The following standards apply in addition to any that may be established as conditions of approval:*

(1) *Environmental quality assurance. An environmental quality assurance program covering all aspects of construction and operation shall be submitted prior to construction of any project component. This program will include a schedule and plan for monitoring and demonstrating compliance with all conditions required by the Development Plan. Specific requirements of this environmental quality assurance program will be determined during the environmental review process and Development Plan review and approval process.*

(2) *Clearing and revegetation. The land area exposed and the vegetation removed during construction shall be the minimum necessary to install and operate the facility. Topsoil will be stripped and stored separately. Disturbed areas no longer required for operation will be regarded, covered with topsoil and replanted during the next appropriate season.*

(3) *Fencing and screening. Public Utility Facilities shall be screened on all sides. An effective visual barrier will be established through the use of a solid wall, fencing and/or landscaping. The adequacy of the proposed screening will be determined during the land use permitting process.*

d. Limitation on use, sensitive environmental areas*. Uses shall not be allowed in sensitive areas such as on prime agricultural soils, Sensitive Resource Areas, Environmentally Sensitive Habitats, or Hazard Areas, unless a finding is made by the applicable approval body that there is no other feasible location on or off-site the property. Applications for Public Utility Facilities in the above sensitive areas shall include a feasibility study, prepared by a qualified professional approved by the Environmental Coordinator. The feasibility study shall include a constraints analysis, and analyze alternative locations.*

b. Consistency with Applicable Policies

The proposed project is an expansion of existing public works facility located in a residentially zoned area. Under Table 'O' of the LCP, this type of development is listed as a S-13 use, allowable but subject to the special standards and processing requirements of CZLUO Section 23.08.280.

Pursuant to CZLUO Section 23.08.288, a Development Plan (coastal development permit) is required for new and expanded public works facilities in the residential land use category. On February 10, 2005 the County Planning Commission granted a Development Plan/Coastal Development Permit to the Cambria Community Services District (DRC2004-00093) in satisfaction of this LCP requirement. The other development standards required under this ordinance, such as revegetating disturbed areas and screening the site have also been addressed through the County's conditions of approval (See Exhibit D) and incorporated into this permit. The final requirement under this ordinance regarding the development of public works facilities in environmentally sensitive habitat areas is addressed in more detail in the ESHA findings of this report.

Public Works Policy 7 of the LCP requires a permit for public works projects located within the coastal zone, unless specific circumstances exist. The specific circumstances include: 1) repair and maintenance activities that do not enlarge or expand the facility; 2) where development is a state university, public trust lands or tidelands; 3) minor projects that can be categorically exempted; and 4) the installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this division. In this case, none of these specific circumstances exist. Thus, a coastal development permit is required.

Public Works Policy 2 of the LCP requires that new or expanded public works projects shall be designed to accommodate but not exceed the needs generated by projected development within the urban reserve line. This policy was certified to implement the Coastal Act requirement that public services be adequate to serve urban development that is otherwise consistent the resource protection policies of the Coastal Act and not be growth inducing. This policy requires an examination of how much storage is actually needed at this time for the proposed project.

The District's July 2004 Water Master Plan[3] identified a need for an additional 2.2 million gallons of storage to meet system wide fire protection, emergency, and operational storage needs. Of this amount, 1.1 million gallons is proposed to be stored at the Pine Knolls tank site. However, there are a number of assumptions underlying the Water Master Plan projections that raise questions about how much water storage is needed at this site, particularly in light of the proposed impacts to ESHA (see below).

First, the CCSD is currently implementing a moratorium on new water connections because of the severe water supply constraints in the current system. As mentioned, these constraints include inadequate fire fighting flows as well as constraints associated with water withdrawals from San Simeon and Santa Rosa Creeks. The Coastal Commission has long recognized these constraints and in both the 1998 North Coast Area Plan update findings, and the adopted Periodic Review of the SLO County LCP, has advised that new development in Cambria not be approved absent a serious effort to address the water supply constraints, including the provision of adequate fire storage. This also includes recommending that the riparian habitat requirements of the creeks be fully evaluated, and that the County and community consider strategies to identify and achieve a reduced potential buildout of Cambria that would better protect coastal resources.

The CCSD is currently evaluating a desalination project that could provide additional water supplies to

[3] *Task 3 Report. Potable Water Distribution System Analysis for Cambria Community Services District* Prepared by Kennedy/Jenks Consultants July 2004.

the community, and is currently planning new capacity to serve only the number of customers currently on the CSD's waiting list for water (670 new connections). Currently there are 3,812 existing water connections and 165 connections in process that have been grandfathered into the current moratorium. Although the current planning assumes a more limited buildout scenario for the community, the actual capacity of any future water supply is not yet established or evaluated for consistency with the LCP. In the optimum situation, new public services, which admittedly are substantial public investments, would be sized to provide for future development that has been evaluated in an LCP planning context for consistency with the Coastal Act and protection of coastal resources. More important in this case, the development and delivery of the actual service expansions to serve potential future development should not be inconsistent with other policies of the LCP or the Coastal Act. Rather, new service capacities should be designed and accomplished consistent with the LCP, such as the ESHA policies that require avoidance of ESHA. The water tanks proposed by the CSD include an approximate 200,000 additional gallons for the assumed future development. If there were no adverse impacts to coastal resources associated with this capacity design in the proposed location, this additional storage on this site might be acceptable. However, given the impacts to ESHA, discussed in detail in the next finding, it is not appropriate to provide future capacity at this location. In addition, the CSD has not shown that this future capacity could not be reasonably provided at other locations or through other changes in the water supply system.

Finally, and separate from the excess capacity provided in the project using a future buildout scenario, the model uses a number of assumptions/multipliers that appear to inflate needed storage capacities communitywide. For example, daily operational storage is the amount water that moves up and down in the tanks in response to hourly changes in customer demands. At its July 24, 2003 meeting, the CCSD Board directed its staff to plan for a 50% increase in daily residential and commercial water use (per connection) as way to provide some relief to existing customers from current water conservation measures that have evolved from years of water shortages in Cambria. This 50-percent across the board "quality of life increase" results in a projected amount of daily water use that may not be accurate. In this example, it is uncertain if people in the community will actually use more water in the future as a result of the Board directive, or if the community will continue to conserve water as it has. In any event, this assumption should not be relied upon when sizing the storage tanks for this project, particularly given the environmental sensitivity of the site.

c. Public Works Conclusion

The applicant is proposing a newly expanded public utility in a residential area of Cambria. While the project has met the necessary permit requirements and development standards, questions remain about the needed storage volume. This raises conflict with LCP Policy 2 in particular, as it appears that the proposed facility is too large for this site in light of current constraints and uncertainty regarding projected development within the service area. Until a sustainable water source is provided in Cambria, it is not appropriate to use a projected buildout scenario to size and design this facility that necessitates adverse impacts to ESHA. As required by 23.08.288, alternative designs and locations must be considered. Thus, the Commission finds the project as proposed is inconsistent with Public Works Policy 2 and CZLUO 23.08.288, as new development must be located in areas able to accommodate it without impacts to ESHA.

2. Environmentally Sensitive Habitat Areas (ESHA)

a. Applicable Policies

The project site is located within an LCP designated Sensitive Resource Area (SRA) combining designation with a Terrestrial Habitat (TH) ESHA overlay. The following LCP policies and ordinances are relevant to the protection of environmentally sensitive Terrestrial Habitat, such as the Monterey pine forest adjacent to the CCSD property:

Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats: *New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed in the area [THIS POLICY SHALL BE IMPLEMENTED PUSUANT TO SECTIONS 23.07.170-178 OF THE COASTAL ZONE LAND USE ORDINANCE (CZLUO).]*

Policy 29: Protection of Terrestrial Habitat. *Designated plant and wildlife habitats are environmentally sensitive habitat areas and emphasis for protection should be placed on the entire ecological community. Only uses dependent on the resource shall be permitted within the identified sensitive habitat portion of the site. Development adjacent to environmentally sensitive habitat areas and holdings of the State Department of Parks and Recreation shall be sited and designed to prevent impacts that would significantly degrade such areas and shall be compatible with the continuance of such habitat areas. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.176 OF THE CZLUO.]*

Policy 30: Protection of Native Vegetation. *Native trees and plant cover shall be protected wherever possible. Native plants shall be used where vegetation is removed [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.176 OF THE CZLUO.]*

Policy 35: Protection of Vegetation: *Vegetation which is rare or endangered or serves as cover for endangered wildlife shall be protected against any significant disruption of habitat value. All development shall be designed to disturb the minimum amount possible of wildlife or plant habitat. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.176 OF THE CZLUO.]*

CZLUO 23.07.160 – Sensitive Resource Area (SRA): *The Sensitive Resource Area combining designation is applied by the Official maps (Part III) of the Land Use Element to identify areas with special environmental qualities, or areas containing unique or endangered vegetation or habitat resources. The purpose of these combining designation standards is to require that the proposed uses be designed with consideration of the identified sensitive resources, and the need for their protection, and, where applicable, to satisfy the requirements of the California Coastal Act. The requirements of this title for Sensitive Resource Areas are organized into the following sections:*

23.07.162 Applicability of Standards
23.07.164 SRA Permit and Processing Requirements
23.07.166 Minimum Site Design and Development Standards

23.07.170 Environmentally Sensitive Habitats
23.07.172 Wetlands
23.07.174 Streams and Riparian Vegetation
23.07.176 Terrestrial Habitat Protection
23.07.178 *Marine Habitats*

CZLUO Section 23.07.164(e) – Sensitive Resource Area Required Findings: *Any land use permit application within a Sensitive Resource Area shall be approved only where the Review Authority can make the following required findings:*

(1) *The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design.*

(2) *Natural features and topography have been considered in the design and siting of all proposed physical improvements.*

(3) *Any proposed clearing of topsoil, trees, or other features is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource.*

(4) *The soil and subsoil conditions are suitable for any proposed excavation; site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff.*

Like the SRA Combining Designation, Environmentally Sensitive Habitats also contain Required Findings (pursuant to 23.07.170(b)).

CZLUO Section 23.07.170 – Environmentally Sensitive Habitats: *The provisions of this section apply to development proposed within or adjacent to (within 100 feet of the boundary of) an Environmentally Sensitive Habitat as defined by Chapter 23.11 of this title, and as mapped by the Land Use Element combining designation maps.*

(b) Required findings: *Approval of a land use permit for a project within or adjacent to an Environmentally Sensitive Habitat shall not occur unless the applicable review body first finds that:*

(1) *There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.*

(2) *The proposed use will not significantly disrupt the habitat.*

CZLUO Section 23.07.176 – Terrestrial Habitat Protection: *The provisions of this section are intended to preserve and protect rare and endangered species of terrestrial plants and animals by preserving their habitats. Emphasis for protection is on the entire ecological community rather than only the identified plant or animal.*

a. *Protection of vegetation. Vegetation that is rare or endangered, or that serves as*

habitat for rare or endangered species shall be protected. Development shall be sited to minimize disruption of habitat.

b. *Terrestrial habitat development standards:*

(1) Revegetation. Native plants shall be used where vegetation is removed.

(2) Area of disturbance. The area to be disturbed by development shall be shown on a site plan. The area in which grading is to occur shall be defined on site by readily-identifiable barriers that will protect the surrounding native habitat areas.

The LCP (CZLUO Section 23.11.030) defines "Environmentally Sensitive Habitat" as:

A type of Sensitive Resource Area where plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. They include, wetlands, coastal streams and riparian vegetation, terrestrial and marine habitats and are mapped as Land Use Element combining designations

If questions arise about the precise boundary location of any land use category or combining designation map boundary, the LCP contains procedures to resolve such questions (CZLUO Section 23.01.041c(3)).

CZLUO Section 23.01.041 – Rules of Interpretation*: Any questions about the interpretation or applicability of any provision of this title, are to be resolved as provided by this section.*

c. Map boundaries and symbols*: If questions arise about the location of any land use category or combining designation boundary, or the location of a proposed public facility, road alignment or other symbol or line on the official maps, the following procedures are to be used to resolve such questions in the event that planning area standards (Part II of the Land use Element), do not define precise boundary or symbol location:*

(3) *Where a boundary is indicated as approximately following a physical feature such as a stream, drainage channel, topographic contour line, power line, railroad right-of-way, street or alleyway, the boundary location shall be determined by the Planning Department, based upon the character and exact location of the particular feature used as a boundary.*

In addition, the LCP includes generalized mapping of Monterey pine terrestrial habitat, which is specifically identified as a Sensitive Resource Area (ESHA) in the North Coast Area Plan as follows:

Monterey Pine Forests (SRA) *– Native Monterey pines occur in only a few areas along the California coast from north of Santa Cruz to Cambria and on one of the Channel Islands off the Santa Barbara County Coast. While widely grown in the Southern Hemisphere as commercial timber, the Monterey Pine occurs in only three areas of its native California. The southernmost stand in California is the 2,500 acres surrounding Cambria with another isolated 500 acres at Pico Creek. These stands are extremely important as a "gene pool" due to genetic variations found there. Relatively undisturbed strands occur on the Cambria fringe area and in isolated*

pockets to the north. Monterey pine forests cover most of the Cambria urban area. The larger remaining stands in undeveloped areas should be retained intact as much as possible by use of cluster development in open areas of sparse tree cover and preservation of finer specimen stands through open space easements

Finally, CZLUO Section 23.08.288(d) addresses the development of public utility facilities in sensitive habitat areas. It states in relevant part:

***23.08.288(d) - Limitation on use, sensitive environmental areas**. Uses shall not be allowed in sensitive areas such as on prime agricultural soils, Sensitive Resource Areas, Environmentally Sensitive Habitats, or Hazard Areas, unless a finding is made by the applicable approval body that there is no other feasible location on or off-site the property. Applications for Public Utility Facilities in the above sensitive areas shall include a feasibility study, prepared by a qualified professional approved by the Environmental Coordinator. The feasibility study shall include a constraints analysis, and analyze alternative locations.*

b. Resource Background - Status of the Monterey Pine Resource[4]

Monterey Pine Forest ESHA in Cambria

The project site is located within the native range of Monterey pine (*Pinus radiata)* forest. Monterey pine forest is a rare and significant environmentally sensitive plant community. Within its native range, only five populations of Monterey pine forest remain in the world, three of which are in the California coastal zone: the main native stand mantling the Monterey Peninsula; the smaller stand near Año Nuevo in Santa Cruz County; the Cambria stand in North San Luis Obispo County (parts of which are the least disrupted of the remaining groves); and stands on two remote Mexican islands, Guadalupe and Cedros, off the coast of Baja. Each stand is restricted to coastal areas typified by summer fog, poor soils and mild temperatures. Although there is some uncertainty concerning the precise historical distribution of these stands, it is clear that all of them, with the exception of perhaps the Año Nuevo stand, have suffered from extensive losses and fragmentation due to development over the last 50 years. The Guadalupe Island population's survival is uncertain, with no natural regeneration for decades – the result of overgrazing by introduced goats. The three remaining California stands are also threatened by habitat loss, due to existing and proposed development (housing and resort development, golf course development, urbanization), continued fragmentation of the remaining intact forest (by roads and other development), soil compaction and erosion (road grading, recreational overuse), genetic contamination

[4] Sources for some of the information in this section include: *Monterey Pine Forest Conservation Strategy Report*, Jones & Stokes Associates, Inc., prepared for the California Department of Fish and Game, December 1996; *Monterey Pine Forest Ecological Assessment: Historical Distribution, Ecology, and Current Status of Monterey Pine*, Jones & Stokes Associates, Inc., prepared for the California Department of Fish and Game, September 12, 1994; *Pitch Canker in California*, Andrew J. Storer, Thomas R. Gordon, David L. Wood, and Paul L. Dallara (from the Pitch Canker Task Force Web Site April 1999); *Current Status of Pitch Canker Disease in California*, CDF Tree Notes #20, July 1995; *California Forestry Note #110*, CDF, November 1995; *Pitch Canker Action Plan, Appendix D to SLO County North Coast Area Plan public hearing document*, December 1996; *Pine Pitch Canker Task Force Position Paper*, California Forest Pest Council, January 23, 1997; *RFP for "Developing Programs for Handling...Infected Pine Material within the Coastal Pitch Canker Zone..."*, CDF, December 1997; *The Cambria Fores*t, Taylor Coffman, Coastal Heritage Press, 1995; *Pebble Beach Lot Program Final Environmental Impact Report*, EIP Associates, June 1997; and In situ *Genetic Conservation of Monterey Pine (Pinus radiata D. Don*): *Information and Recommendations*. D.L. Rogers. Report No. 26, Genetic Resources Conservation Program, University of California, Davis, September 2002; California Native Plant Society, "A Petition to the State of California Fish and Game Commission," August 1999.

by planted non-local Monterey pines, and invasive exotic plants (genista or "broom", pampas grass, acacia, eucalyptus, etc.). Commercial logging was an issue in the past, but today is largely confined to firewood cutters and small salvage operations.

As described in the certified North Coast Area Plan, each of the three native stands in California (Año Nuevo, Monterey Peninsula, and Cambria) is geographically isolated from the others and ecologically and genetically unique. The southernmost stand in California is the 2,500 acres surrounding Cambria with another isolated 500 acres at Pico Creek. In addition to their distributional rarity, these stands are extremely important as a "gene pool" due to genetic variations found there.[5] Relatively undisturbed stands occur on the Cambria fringe area and in isolated pockets to the north. Monterey pine forest covers most of the Cambria urban area. According to biologist V.L. Holland, a comparison of the three naturally occurring mainland populations of Monterey pine shows that members of the Cambria populations have significantly larger cones than do the other populations. Along with the increased cone size there are other distinguishing features of the cones, such as larger apophyses, greater asymmetry, and larger seeds. It has also been noted that the Cambria population probably occupies the driest of the three remaining stands and that the larger cones and seeds may be an adaptation to this drier habitat. In Cambria, Monterey pines are often planted as ornamentals or to replace trees destroyed by construction activity. In the past, little attention has been paid to the source of the trees and they are often replaced from plantation stock, not from the indigenous stock. Accordingly, there is a real danger that the genes from plantation grown plants will dilute the genetic uniqueness of the Cambria pines.[6]

In recognition of this high sensitivity and uniqueness of Monterey pine, the certified SLO LCP identifies Monterey pine forest as terrestrial habitat (TH) to be treated as ESHA, and includes generalized mapping of the pine forest habitat areas known at the time of LCP certification.

Since certification of the LCP, the sensitivity of Monterey pine forest has been further recognized. In 1994 Monterey pine was included on the California Native Plant Society's (CNPS) 1B List, which includes native plants considered to be rare, threatened, or endangered.[7] CNPS also uses a system called the R-E-D Code for sensitive species that indicates the overall level of conservation concern for any particular plant, based on its rarity, endangerment, and distribution. In the case of Monterey pine, the CNPS R-E-D code is 3-3-2 (with 3 indicating highest concern) because of its limited number of restricted occurrences (only 5 locations, 3 in California), serious endangerment in California, and its rarity outside of California (but for the small pine forest populations on Guadalupe and Cedros Islands off of Baja, the R-E-D code presumably would be 3-3-3). Reflecting the high level of concern, Monterey pine has been given the highest threat ranking by the California Department of Fish and Game

[5] See, also, California Native Plant Society, "A Petition to the State of California Fish and Game Commission," August 1999

[6] *Biological Survey of Leffingwell Ranch Cambria, California,* V.L Holland, Ph.D., Lynne Dee Oyler, M.S., July 30, 1994

[7] CNPS summarizes the status of List 1B plants as follows: "The 1021 plants of List 1B are rare throughout their range. All but a few are endemic to California. All of them are judged to be vulnerable under present circumstances or have a high potential for becoming so because of their limited or vulnerable habitat, their low numbers of individuals per population (even though they may be wide ranging), or their limited number of populations. Most of the plants of List 1B have declined significantly over the last century." *CNPS Inventory of Rare and Endangered Plants of California* (2001).

in its Natural Diversity Database (G1, S1.1).[8] In short, concern for the protection of Monterey pine forest is quite high. In recognition of the high conservation concern for Monterey pine, the species also was placed on the International Union for Conservation of Nature and Natural Resources Red List of threatened species in 1997.

As mentioned, the Monterey pine forests in Cambria are threatened primarily by the direct loss of habitat due to development, soil erosion, fire suppression, and the introduction of invasive exotic plants. In addition, fragmentation, pine pitch canker, genetic contamination, and loss of genetic diversity threaten the forest. New development may result in the physical loss of trees as well as impacts to the overall forest habitat and species therein. Fragmentation of Monterey pine forest by continuing development can also create smaller isolated pockets of pine stands. Once a stand is fragmented, the small pockets are more subject to disease and root damage, and overall forest integrity is reduced.

In summary, native Monterey Pine forests are rare and play a special role in ecosystems, such as by providing critical habitat for other rare and unusual species. Each of the five remaining populations of Monterey pine is distinctive. The native pine stands in Cambria represent an important natural resource for California, and the world. Overall, within the native range of Monterey pine, forest habitat areas that have not been substantially developed and urbanized meet the definition of ESHA under the Coastal Act. Effective conservation of the diversity within the species requires that each native population be protected. Finally, Monterey Pine forests are demonstrably easily disturbed and degraded by human activities and developments. Therefore, within the native forest habitats, those stands of Monterey pines that have not been substantially developed and urbanized meet the definition of Environmentally Sensitive Habitat Area (ESHA) under the San Luis Obispo County certified LCP.

c. ESHA Identification on the Project Site

On of the most important steps in the development review is to accurately identify the presence of ESHA within or adjacent to the development site. The LCP (CZLUO Section 23.11.030) defines "Environmentally Sensitive Habitat" as:

> *A type of Sensitive Resource Area where plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. They include, wetlands, coastal streams and riparian vegetation, terrestrial and marine habitats and are mapped as Land Use Element combining designations.*

The certified LCP generally uses a map-based system to identify areas where new development needs to be reviewed for conformance with the LCP provisions protecting ESHA. Essentially, the LCP uses "combining designations" as geographic overlays to land use designations that identify particular resources or constraints that need to be considered during the development review process. These geographic "overlays" are useful tools for generally identifying particular areas known to support sensitive habitats. In such areas, the LCP prescribes the need for more detailed project review to avoid

[8] G1 is a global condition ranking indicating that at the species or natural community level less than 6 viable element occurrences (Eos) OR less than 1,000 individuals OR less than 2,000 acres remain. S1.1 is the corresponding state ranking coupled with a threat ranking, in this case "very threatened".

or minimize adverse environmental impacts. As described in part on page 7-1 of the Framework for Planning:

> *Combining designations identify areas with characteristics that are either of public value or are hazardous to the public. The special location, terrain, man-made features, plants or animals of these areas create a need for more careful project review to protect those characteristics, or to protect public health, safety and welfare.*

If questions arise about the precise boundary location of any land use category or combining designation boundary, the LCP contains procedures to resolve such questions. Section 23.01.041c(3) states:

> *Where a boundary is indicated as approximately following a physical feature such as a stream, drainage channel, topographic contour line, power line, railroad right-of-way, street or alleyway, the boundary location shall be determined by the Planning Department, based upon the character and exact location of the particular feature used as a boundary.*

In this case, a number of factors were reviewed to determine if the proposed project site qualifies as Monterey pine forest ESHA. Factors to consider when making an ESHA determination include general health of the forest, loss of habitat area to development, fragmentation of habitat and increased edge effects, health and species composition of the forest understory, and connectivity to other forested areas. It is important to note that Monterey pine forest needs to be understood as a complete and dynamic habitat – understory and overstory, animals and interactions, soils and climates. A forest is a complex, interdependent web of living organisms rather than just a collective noun for a group of trees in the landscaping sense. At issue is preservation of habitat, not simply evaluation of individual tree impacts.

Biology

The existing 11,000 square foot Pine Knolls tank site owned by the CSD does not contain sensitive habitat. The site is disturbed and contains two existing water tanks. There is sparse cover of annual grasses and weeds with some landscape trees and shrubs planted along the sites western and southern boundaries. Two Monterey pines are located on the existing site separated from the nearby forest, and appear to have been planted as landscape screening. The Biological Assessment[9] states that these two trees are likely not of native stock. Coast live oaks ring the western boundary of the project site.

In contrast, the northeast expansion area is described in the Biological Assessment as being Closed-Cone Coniferous Forest, of the Monterey Pine Series. The trees are described as being of a common age structure with most trees having a diameter between 10-20 inches. The study notes that some small seedlings and saplings are also present. The Coast live oaks range from seedlings to large trees, with an average diameter of 7 inches. Common understory species observed in the Monterey pine forest within and adjacent to the project site include: toyon (*Heteromeles arbutifolia*), coffee berry (*Rhamnus californica*), snowberry (*Symphoricarpos mollis*), bracken fern (*Pteridium aquilinum var. pubescens*), California blackberry (*Rubus ursinus*), and sticky monkey flower (*Mimulus aurantiacus*).

Besides the Monterey pine, no sensitive plant or animal species were observed on the portion of the proposed project site in the Monterey pine forest. As discussed previously, the native Monterey pine

[9] Biological Assessment, Cambria Community Services District Mitigated Negative Declaration Pine Knolls Tank Site Cambria, San Luis Obispo county, California. Prepared by Jennifer Langford, May 2004.

(*Pinus Radiata*) is listed as Rare, Threatened or Endangered (list 1B) by CNPS. Though no other sensitive plant species were observed on the project site, suitable habitat is present for four other local sensitive plants including: Hickman's onion, Cambria morning glory, branching beach star, and Michael's rein-orchid. In addition, there is suitable habitat provided in the Monterey pine forest for six sensitive bird species including: northern harrier, white-tailed kite, Cooper's hawk, sharp-shinned hawk, long-eared owl, and loggerhead shrike.

In this case, the northeast expansion area proposed for development is in good health and relatively intact. The most fragmentation and disruption has occurred in the location of the existing tank site and the residences to the west and south. There is healthy contiguous Monterey pine forest habitat, and thus habitat connectivity, primarily to the north and east of the subject property. The aerial photo attached as Exhibit C are extremely helpful in showing connectivity to other forested areas. Even smaller stands of Monterey pine forest may be considered ESHA if the health of the stand is good, particularly if there is a healthy understory with a strong assemblage of other native and sensitive plant species present. The rare and special plant species present on the project site, combined with a healthy understory and good tree condition indicate the health of the project site stand is optimal. It should also be noted that this particular forest stand is part of a conservation easement held by The Nature Conservancy to be protected from development. Finally, the Commission's ecologist visited and evaluated the site on November 11, 2004 and concurs with the finding that the site contains environmentally sensitive Monterey pine forest habitat.

Maps

The LCP maps show an SRA combining designation boundary line running co-terminous with the property boundary of the CCSD's existing 11,000 square foot property. Slightly offset from the SRA boundary, the LCP maps show a Terrestrial Habitat boundary line (see Exhibit B).

As described previously, the LCP generally uses a map based system to identify areas where new development needs to be closely reviewed for conformance with the LCP provisions protecting ESHA and uses "combining designations" as geographic overlays that identify particular resources or constraints that need to be considered during the development review process. The CCSD has questioned whether or not this area is within ESHA. Clearly, the LCP maps do not necessarily provide a precise or an up-to-date accurate depiction of the Monterey pine forest resource, as it exists on the ground today in any particular case. But this reality is contemplated by the LCP through the applicable rules of interpretation. The LCP rules of interpretation CZLUO Section 23.01.041c(3) states:

> *c. Map boundaries and symbols: If questions arise about the location of any land use category or combining designation boundary, or the location of a proposed public facility, road alignment or other symbol or line on the official maps, the following procedures are to be used to resolve such questions in the event that planning are standards (Part II of the Land Use Element), do not define precise boundary or symbol location:*
>
> > *(3) Where a boundary is indicated as approximately following a physical feature such as a stream, drainage channel, topographic contour line, power line, railroad right-of-way, street or alleyway, the boundary location shall be determined by the Planning Department, based upon the character and exact location of the particular feature used as a boundary.*

In this case, the particular physical feature used as the boundary for the mapped SRA (combining designation) *is* the Monterey pine forest terrestrial habitat (TH). Therefore, to the extent there may be a question about the location of the TH boundary in this case, under the LCP the identification of the mapped SRA Monterey pine forest boundary is to be based on where the resource is actually on the ground. Thus, even though the existing SRA maps of the Monterey pine habitat on the tank site don't correspond directly with actual resources, the LCP directs that this discrepancy be resolved based on the physical features of the resource that is mapped – i.e. the sensitive resource boundary is determined by actual on-the-ground forest habitat conditions.

It should be noted that the County of San Luis Obispo supports an ESHA determination for the project site. Early in the development review process with the County, at a March 31, 2004 meeting between John Hofschroer (SLO County Planning) and Robert Gresens (CCSD), Mr. Hofschroer cited the LCP's Rules of Interpretation (Section 23.01.041c) in making the determination the EHSA boundary included the proposed project site.[10] Moreover, the Planning Commission in its approval of the project also found that the proposed project was within Monterey pine forest ESHA.

The issue of reconciling outdated or imprecise LCP maps with actual resource conditions was detailed in the Commission's review of the Periodic Review of the San Luis Obispo County LCP adopted by the Commission in July 2001. The County has recently responded to the Commission's concern in their most recent Periodic Review Implementation LCP amendment submittal to the Commission (SLO-MAJ-1-03). In that submittal, which the Commission certified on February 20, 2004 and that is now in effect, the County incorporated the Commission's suggested modification that more specifically and directly references the rules of interpretation for resolving questions regarding projects which may be appealed to the Coastal Commission based on the location of development within a Sensitive Resource Area. As stated by the Commission's findings on page 37 of SLO-MAJ-1-03 (Phase 1 Periodic Review Implementation) the purpose of this modification was to clarify that "the location of development in relationship to sensitive resource areas must be determined in accordance with the actual location of the resource, rather than a depiction on a map". Specifically, the LCP states in significant part:

> ***CZLUO Section 23.01.043(c) - Appealable development.*** *As set forth in Public Resources Code Section 30603(a) and this title, an action by the County on a permit application, including any Variance, Exception, or Adjustment granted, for any of the following projects may be appealed to the California Coastal Commission:*
>
> *i. Development approved between the sea and the first public road paralleling the sea, or within 300 feet of the inland extent of any beach (or of the mean high tide line of the ocean where there is no beach), whichever is the greater distance, as shown on the adopted post-certification appeals maps.*
>
> *ii. Approved developments not included in subsection c(1) of this section that are proposed to be located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff as shown on the adopted post-certification appeals maps.*

[10] January 27, 2005 Revision to the Initial Study/Mitigated Negative Declaration

iii. Developments approved in areas not included in subsection c(1) or c(2) that are located in a Sensitive Coastal Resource Area, which includes:

(i) Special marine and land habitat areas, wetlands, lagoons, and estuaries mapped and designated as Environmentally Sensitive Habitats in the Local Coastal Plan.

…

The procedures established by Section 23.01.041 c. (Rules of Interpretation) shall be used to resolve any questions regarding the location of development within a Sensitive Coastal Resource Area (underline added).

In conclusion, the Commission finds that the Monterey pine forest habitat that exists on the project site is ESHA under the SLO LCP and, moreover, does constitute mapped Terrestrial Habitat to be protected pursuant to the policies cited above.

ESHA Identification Conclusion

Native Monterey pine stands only occur in five relatively small and separate locations. Native Monterey pine forest habitat is rare and seriously at risk in California, and is nearly non-existent outside of California. Monterey pine is included on CNPS's 1B List because of its status. For these reasons, the proposed project's location in an area of Monterey pine forest habitat requires that an ESHA determination be made. As discussed above, there are a number of factors that should be evaluated to determine whether the proposed project site is ESHA. These factors include evaluating the general health of the forest on the project site, assessing the level of fragmentation and level of development in and around the project site, describing the health and species composition of the forest understory, and examining the level of connectivity of the project site to other nearby forested sites.

All of these factors support the designation of the northeast expansion area as ESHA. The property is contiguous with large tracts of remaining undeveloped Monterey pine forest protected under a conservation easement and supports rare and sensitive plant and animal species. The presence of seedlings on the project site indicates a healthy forest where Monterey pine regeneration is taking place. After carefully weighing all the above factors, it has been determined that the site is ESHA**.**

d. Impacts to Monterey Pine Forest ESHA

As described above, the northeast expansion area is located entirely within an ESHA. The proposed project impacts approximately 6,100 square feet of ESHA habitat for public utility development that is not dependent on the Monterey pine forest. Structural development within this area will result in a permanent loss of habitat. Additional adverse impacts will result from site preparation during construction and subsequent use of the site. Constructing water tanks on this site will result in a significant disruption and destruction of environmentally sensitive forest habitat areas on the site. The loss of healthy habitat areas as a result of new development, particularly those protected from development through conservation easements, will have negative effects on the biological continuance of the identified Monterey pine forest.

e. Inconsistencies

The CCSD proposes to develop 550,000 gallon water tanks and other associated site improvements within ESHA. This project is inconsistent with core policies and ordinances of the San Luis Obispo LCP and should not be approved as currently designed. The LCP requires that development within or adjacent to ESHA shall not disrupt the resource and only those uses dependent on the resource shall be allowed. As established in the above findings, the northeast expansion area is located within Monterey pine forest ESHA and the proposed development is not resource dependent. Furthermore, the applicant has not demonstrated that the project can be developed without significantly disrupting and adversely impacting the sensitive Monterey pine forest habitat in this area. Therefore, this development is inconsistent with the applicable LCP policies and ordinances protecting ESHA.

f. Alternatives

Notwithstanding the ESHA prohibitions of the LCP, CZLUO Section 23.08.288(d) does provide a potential limited exception for necessary utilities. This section prohibits public utility facilities in SRA's and ESHA's unless there is no other feasible location on or off-site the property. A feasibility study must be conducted that analyzes constraints and alternative locations. Staff has worked on a number of project concepts that address certain design criteria and site constraints. The following analysis addresses each of these constraints and shows how they can be met with an onsite design. Offsite alternatives are also briefly discussed.

Onsite Alternatives

Based on a number of conversations with CCSD district staff, Commission staff now understands that the district's optimal requirements on the Pine Knolls site include the following components:

1) 1,100,000 gallons of water storage. The district asserts the need for an additional 2.2 million gallons of storage to meet system wide fire protection, emergency, and operational storage needs. Of this amount, 1,100,000 gallons is proposed at the Pine Knolls site to serve Pressure Zone 1 of the District's water distribution system. This amount of storage will provide roughly half of the projected system wide fire storage, emergency, and operational storage needed to adequately serve the town. Future projects on other district sites will ultimately provide the remaining 1,100,000 gallons identified by the CSD as the needed volume.

2) Multiple tanks. Although the district had earlier explored a design that placed one, large, 1,100,000 million gallon, concrete tank wholly on the existing 11,000 square foot site, this alternative was rejected because of maintenance considerations (whole single tank would be down for maintenance) and because it could not be built whilst leaving both of the existing tanks in place.

3) Existing Tanks to remain during construction. Currently, there are two 103,000-gallon tanks on the site. The district would like to maintain this water storage until at least one of the new tanks is built and brought online. Given the location of the existing tanks, maintaining service of them during construction severely limits design options on the site. The district has stated that it does not want to locate temporary tanks that would allow the early removal of the existing tanks on or off site due to cost. The CSD's original one tank design did contemplate a temporary tank to address this constraint.

4) Tank height: Tank height cannot exceed 32' (water height of 29.5') due to the hydraulics of the water system. (Boyle Engineering letter to Bob Gresens, District Engineer, dated February 4, 2005, page

6.) Higher tanks would, according to the district, create unacceptable water pressure problems in part of the system that could not be alleviated by pressure relief valves or other mechanisms. According to the district, tanks cannot be buried or partially buried due to system hydraulics and poor water circulation within the buried portion of the tank. According to the district, all tanks must be the same height.

5) Maintenance area around tanks. The district states that the tanks will need to be painted on the interior and exterior approximately every 10 to 15 years depending upon corrosion and wear of the paint. The district asserts such painting operations require the use of air compressors for sandblasting; lifts; and scaffolding. The district states that a pickup truck pulling such equipment will need to be able to maneuver around each tank. Hauling off of sand will also be necessary out of tank access hatches. In addition, the district asserts the need for an ambulance to be able to traverse around the tanks in the event a worker is injured.

6) Access Road. The district states that an access road, a minimum of 12', but preferably 15', with three-foot buffers on both sides (for a total of 18 feet) is needed across the south property boundary to allow fire truck and bulldozer access to the adjacent forest in the event of fire. The purpose of this road is to allow fire trucks and/or bulldozers to have direct access to the forest margin. No additional roads are proposed off district property within the forest.

7) Residential Zoning Setbacks. The district states that the setbacks they are required to observe for the project (assuming 30' tall tanks) are based on the standards of Title 23.04.110 and would require 16' setbacks all around the property as a commercial or industrial use located next to residentially zoned land. The proposed use is a public services utility, not a commercial or industrial use and, thus this section of the zoning ordinance would not apply to the project. The site is zoned residential single-family (RSF) and normal setbacks in Tract 112 of Pine Knolls are 25' front yard, 5' side yard and 10' rear.

Analysis

In early December, Commission staff prepared a number of alternative site plans for the existing 11,000 square foot site that would provide most or all of the storage sought by the district. (Please see Exhibit M). At the time Alternatives A-D were prepared, some of the constraints limiting the design were not known (i.e. limit on tank height due to limit on water depth in the tanks). The district reviewed these alternatives and rejected them all. A summary of the alternatives and an analysis of the district's comments follow:

Alternative A: This alternative provides for the fire access road, construction of four tanks (three 30' diameter by 36' height and one 50' diameter by 35' in height tank) for 1,055,000 gallons of storage. Tanks could be constructed sequentially to allow the existing tanks to remain until their storage capacity was replaced with new tanks.

The district rejected this alternative because the water level in the tanks cannot exceed 29.5' and thus would only provide slightly over 900,000 gallons of storage, not the 1,100,000 desired. The district also noted that the configuration did not comply with 16' foot side yard set backs for industrial development or the optimal 12' maintenance area around the tanks and the proposed access road was too sharp for fire trucks.

Based on further evaluation, it appears that only 5 to 8 feet are required for maintenance around the tanks. This is based on discussions with other tank suppliers, tank maintenance companies, professionals, as well as other recent Commission evaluations of steel water tank projects in Los Osos and Sand City. Using this parameter, Alternative A could be revised to increase the diameter of the smaller tanks to 31.5', decrease the size of the large tank to 48' in diameter, observe the limit on water depth at 29.5' and still provide the 934,000 gallons of storage needed for existing uses and fire storage. Setbacks under this revised alternative vary from 8' to 10' clearance between tanks and 7' to 17' clearance around tanks. This alternative meets the residential setbacks for side yards and rear yard (5' side, 10' rear) but one tank encroaches 12' into the 25' front yard setback. The access road could be slightly realigned to come into the property directly off the road and thus allow for fire truck access (Please see revised Alternative A).

The Commission notes, however, that to maximize water storage on this site and avoid impacts on the adjacent ESHA, strict side, front, and rear yard setbacks on the existing 11,000 square foot tank site cannot be met and a variance would have to be obtained. Weighing the need to protect ESHA and the need to maximize storage on site, a more flexible allowance on setbacks would appear to be warranted, particularly when two sides of the site border land that will not be developed. If it was determined that strict adherence to set backs was more protective of coastal resources, then water storage on site would have to be significantly reduced.

In summary, a revised Alternative A provides adequate storage to meet current needs, meets the multiple tank requirement, provides adequate room around the tanks for maintenance, meets the height limits, provides for an access road and allows the existing tanks to remain until replaced. This alternative meets most of the district's criteria but avoids any encroachment into the neighboring pine forest habitat.

Alternative B: Alternative B proposes a cluster of five 36' tall and 31' diameter tanks with an access road around three sides of the site. The tanks could be a minimum of ten feet apart but a small encroachment into the neighboring parcel is needed to provide road access around one of the tanks. Total storage under this alternative is 1,000,000 gallons.

The district rejected this alternative because with a maximum water depth of only 29.5 feet, the storage using this cluster configuration would only provide 832,000 gallons of storage, Other reasons for rejecting this alternative included inadequate set backs, tanks were too close to one another (district now asserts that 12 feet is required between tanks rather than the 5 to 8 feet stated in the Initial Study) and the access road entrance was too sharp for emergency vehicles.

The Commission notes that a slight reconfiguring of the tanks and a 2.5' increase in diameter for two of the tanks would yield 939,000 gallons of storage which is adequate for existing use. The revised alternative meets side and rear yard setbacks but encroaches 5' into the 25' front yard setback. Distances between tanks vary between 9' and 15' clearances around the tanks vary from 7' to 20' (front of site). Similarly, the access road entrance could be easily redesigned to accommodate emergency vehicles (Please see Revised Alternative B). Finally, the existing tanks can remain in service until they are replaced. In summary, a revised Alternative B meets most of the CCSD's criteria and avoids encroachment into the neighboring property.

Alternative C: Alternative C provides for two tanks, 35' in height and 50' in diameter. A ten-foot wide

access road runs around the full perimeter of the site, the tanks are 10' apart and total storage is 1,070,000 gallons.

The district rejected this alternative because total storage was only 832,000 gallons when the limit on water depth was calculated (maximum depth 29.5'), Other factors weighing against this alternative were lack of landscaping, tanks too close, set backs not met, only one of the existing tanks could be maintained until replaced and the access road was too sharp for fire trucks.

Alternative C could be revised to address most of the district's concerns by changing the size of the tanks to 48' in diameter with a maximum water depth of 29.5' (storage of 818,00 gallons) and the addition of two 20' diameter tanks for an additional 140,000 gallons of storage (for a total storage on site of 998,000 gallons). Changing tank size and placement would also allow for a 15' wide access road. The access road entrance in Alternative C is virtually identical to the one proposed by the district so it appears that the CCSD comment regarding its adequacy is misplaced. Existing tank storage of 200,000 gallons could largely be retained on site under this alternative by sequencing the new tank construction as shown on Revised Alternative C, Exhibit P.

In summary, Revised Alternative C provides 10' to 16' clearance between tanks and 8' to 19' of clearance around the tanks. Revised Alternative "C" also meets the side and rear yard setbacks, but two of the tanks encroach 10' and 5' respectively into the 25' front yard setback, and provides slightly more storage than that required for current use.

Alternative D: Alternative D provides for two tanks, one 40' in diameter and 30' high and the other 60' in diameter and 34' in height with a total storage capacity of 1,060,000 gallons and a 12' wide access road.

This design was rejected by the district for a number of reasons; the access road was too narrow, too sharp, not in the right location, inadequate clearance around tanks, inadequate storage capacity (using the maximum water depth criteria of 29.5 feet, total capacity is 901,000 gallons) and tank sizing will not allow normal operations when the large tank is down for maintenance.

Consistent with the district's comments, Alternative D could be reworked to provide a maximum of 920,000 gallons of storage while allowing clearances of 8' to 18' between tanks and 8' to 16' around the tanks, consistency with rear yard and side yard setbacks but not the front yard setback, and the retention of existing storage until replaced by the new tanks (Please see Revised Alternative D). The access road in Alternative D is generally in the same configuration as that proposed by the district.

Alternative E: Staff has also prepared a site plan and tank configuration that meets all of the District's siting criteria, however, as can be seen, if all the criteria are strictly adhered to, only 408,000 gallons of storage can be developed on the site (Please see Alternative E, Exhibit P).

Conclusion: The preceding discussion of alternatives shows that there are a number of tank configurations that meet most of the district's requirements and do not require encroachments into the adjacent habitat. The alternatives presented certainly do not exhaust all the possibilities as undoubtedly; there are a number of other alternatives for on site storage that could also be developed. There is no alternative, however, that completely meets the district's criteria. Compromise on some of the criteria will be needed to provide for a project that will fit on the existing site and meet the district's current

needs. Some of the criteria articulated by the district are less subject to flexibility than others. For example, the district has stated that the water level in the tanks cannot exceed 29.5 feet in depth for operational reasons as discussed earlier in this report. If this is accurate, then this factor essentially limits the height of tanks that can be used on the site to 32' (29.5' water depth, 2.5' of freeboard) and thus the storage capacity of each tank. This constraint is very important in this case because the existing site is relatively small at 11,000 square feet and the ability to construct taller tanks would allow more storage by going vertical rather than using scarce site space with larger diameter tanks.

Another consideration is the provision of adequate space around each tank to allow for maintenance (painting, cleaning etc), This criterion may be more flexible. The district itself gives various minimum clearances as meeting their needs. The environmental documents prepared by the district state that a 5' to 8' walkway would be developed around the tanks (Initial Study/Mitigated Negative Declaration, January 27,2005 Revision, page 9). In other conversations, the figure of 10' to 12' has been given. In the district's response to alternatives proposed by Commission staff, they have stated that 12' is insufficient and that 15.5' is actually needed between tanks (12' between tank foundations that extend 1'9' beyond the tank). This figure conflicts with other figures ranging between 12'-15' given by the district at various times. Finally, a recent water tank replacement project in Los Osos shows a clearance of 8' around 42-6' tall tanks, and one proposed in Sand City shows clearances as small as 3' and 5' around 425,000 gallon tanks (see Exhibit Q). Clearance around tanks on a small site greatly affects the size of tanks placed on the site and thus the storage capacity. Obviously, a reasonable amount of room is needed to perform maintenance and from a practical standpoint 8 to 10 feet is adequate to stage the hydraulic lift and other equipment needed for painting and other maintenance based on information from various sources. Therefore, a reduction in the district's most conservative estimate of 15' can be supported.

Setbacks from the property line greatly influence the size and placement of the tanks. The concept of setbacks was developed as a modern planning tool to provide noise buffering, and visual, and physical space between neighboring uses. The use of setbacks is thus employed to reduce conflicts among neighbors by providing for reasonable privacy from adjacent noise and views thereby allowing greater enjoyment of individual developments. In this case, setbacks for the purposes of privacy from views into the yards and homes of neighbors from the Pine Knolls site and noise generated by the proposed development are less of a concern because water tanks are not inhabited nor are they noisy. The primary issue for this project is the impact of views of the tanks from adjacent properties because the tanks will be as tall as the tallest house permitted in the zone district and, as with a new house, will be visible. The areas of most concern would be the west and south property boundaries because existing single-family homes are located on these adjacent parcels. The proposed tanks will thus be visible from the backyard of one property and the side yard of another. The east and north boundaries are less important from a perspective of concern for adjacency of development, because this land is part of a 1,644-acre holding and is subject to a conservation easement that does not allow development..

Many property owners face the dilemma of new development on adjacent vacant lots or the more common trend of the replacement of a small house on an adjacent lot with a much larger one. Aside from noise and visual privacy impacts, these changes introduce new structures into the viewshed of neighboring homes thus changing the appearance of the immediate neighborhood.. Although, water tanks currently are located on the site, the new development will be more intense. In this particular case,

the use of fencing and landscaping with fast growing plant materials trained for vertical growth take up little room and can provide adequate visual buffering from the backyard and side yard view of the neighbors. As many people do when a larger home is built next to them, the neighbors may also wish to consider adding additional landscaping along the relevant property lines. Although the Commission staff has not prepared landscape plans for the alternatives discussed in this Finding, all of the alternatives provide adequate setbacks for fencing and fast growing landscaping along all of the site boundaries. As discussed earlier, there are no doubt a number of other alternatives that could be prepared by engineers and landscape architects that would provide reasonable visual relief from the new tanks as well.

As discussed in the preceding paragraphs of his report, it will be more consistent with the policy direction of the LCP to allow some flexibility in the set backs, particularly when the planning objectives of the setbacks can be met by proper fencing and landscaping as detailed in the preceding paragraph, in order to preserve ESHA and to maximize water storage on this site.

Storage capacity is also a very important consideration for the district. They have proposed 1.1 million gallons of storage at Pine Knolls (630,000 gallons fire storage, 470,000 gallons for operations). Given the dual constraints of limited tank height and the need for clearance around the tanks, this amount of storage is unlikely to be achieved on this site. However, it should be noted that the proposed 1.1 million gallon exceeds the community's current needs and can be reduced to 934,000 (the amount necessary to serve current community needs). This change alone allows much more design flexibility due to a smaller tank size. There are a number of alternatives (and likely many more that have not been yet developed) that provide about 90% of the desired storage and enough storage to meet current needs of 934,000 gallons.

The other district criteria for tank development on the Pine Knolls site are less problematic. There are a number of site plans that allow the existing tanks to remain in service until they can be replaced, the access road can be accommodated at the 12' width easily, and a multiple tank configuration can also be achieved under a variety of scenarios. Finally, all the alternatives proposed in this report and the others that certainly could be developed; contain room for required fencing and landscaping to buffer the tanks from view.

Offsite Alternatives

In addition to the onsite alternatives analyzed above, CZLUO Section 23.08.288(d) requires that offsite alternatives also be analyzed. A number of offsite alternatives were evaluated in an effort to identify areas or mechanisms other than additional tank capacity at Pine Knolls to address the identified water need. These included: 1) distribution system upgrades to address hydraulic constraints; 2) water storage tanks dedicated only to fight fires as a way to address limited space on the Pine Knolls tank site; 3) the use of "localized" water treatment to overcome water quality concerns; and 4) the use of pressure zone interactions to assist in water supply and fire protection. In each case, the district dismissed the alternative because they were determined to be either: infeasible, not recommended, not practical, or not acceptable.

Examination of the water system analysis provided to the Commission raises questions about this conclusion that other offsite alternatives are not feasible to address future water storage needs in Cambria. As explained by the CSD, the capacity planned for the Pine Knolls site is based on fire flow to

fight two major fires in pressure zone 1, serve future development at a level approximately 20% greater than existing development, and provide emergency water flows for this future level of development. As just discussed, it appears feasible to provide sufficient water storage on the Pine Knolls site to provide adequate fire flows, operational and emergency storage for existing development in pressure zone 1 without impacting ESHA. One possible option for additional storage that is dismissed by the CSD is increased tank capacity at other tank sites. The feasibility study submitted by the CSD dismisses this option in part because the "distribution system capacity is inadequate to provide sufficient fire flow…." If sufficient fire flow capacity is already provided at Pine Knolls, though, distribution capacity is not needed for fire flows but rather for operational and/or emergency flows to Pressure zone 1. It is not clear that such an alternative is infeasible. Indeed, the CSD's water plan describes existing pressure valves (such as between zone 7 and zone 1) and recommends a new pressure valve that could provide for the movement of water from other pressure zones into zone 1. For example, on page 54, the plan recommends a new pressure valve to move water from zone 5 to zone 1 to address the possible emergency situation of simultaneous fires in zones 5 and 1. It is unclear why such system dynamics and upgrades would not address the potential shortfall in operational and/or emergency capacity in Pressure zone 1.

The CSD also observes that other tank sites are "mapped ESHA" and thus additional capacity at these sites is not feasible. However, no site specific analysis of each tank site, including an assessment of actual resource constraints on the ground, has been provided. Thus, it has not been established that there is insufficient water storage capacity on other tank sites.

Finally, it is not clear that the feasibility of new alternative tank sites within the community has been completely evaluated. For example, the Water Plan dismisses the possibility of a tank in the vicinity of the new Cambria school because of pipeline restrictions placed on the permit by the Coastal Commission to address growth inducement. The purpose of these restrictions was to guard against growth-inducing pipeline extensions outside of the urban area. Although further evaluation would be needed, it is not clear that this permit could not be amended to provide tanks and pipelines for necessary water storage for existing and planned development within the urban area while still maintaining the purpose of the permit issued by the Commission.

g. Alternatives Conclusion

In conclusion, the Commission finds that there are reasonable alternatives to the proposed site plan that would give the district the storage it reasonably needs for existing development in the area served by the tanks while avoiding any encroachment into the adjacent Pine forest ESHA. Further, the CSD has not conclusively established that there are not other feasible alternatives to address the potential storage shortfall for future development. It is understood in order to maximize fire storage on the Pine Knolls site, typical setbacks may be reduced and clearance around the tanks may be less than optimal, however this compromise is required to comply with the appropriately protective policies relevant to ESHA. As conditioned to revise the site plan to maintain all development within the boundaries of the existing site (Special Condition 2), the project will be consistent with the ESHA policies and ordinances of the LCP.

E. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in

conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has analyzed the environmental impacts posed by the project and identified changes to the project that are necessary to reduce such impact to an insignificant level. Based on these findings, which are incorporated by reference as if set forth herein in full, the Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA.